



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2018-0389; FRL-9983-50-Region 8]

#### Approval and Promulgation of Air Quality Implementation Plans; Wyoming; Incorporation by Reference Updates

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving eight State Implementation Plan (SIP) revisions submitted by the State of Wyoming; four submitted on March 27, 2017, and four submitted on March 28, 2018. The revisions include updates to incorporation by reference within several parts of the Wyoming Air Quality Standards and Regulations that are part of the SIP. Additional revisions are being approved that: correct an inconsistency regarding internal combustion engine nitrogen oxide requirements; amend three state regulations to maintain consistency with federal regulations; and update a state internet address.

**DATES:** This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2018-0389. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through [www.regulations.gov](http://www.regulations.gov), or please contact the person identified in the “For Further Information Contact” section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Chris Dresser, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6385, [dresser.chris@epa.gov](mailto:dresser.chris@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background Information**

In a rulemaking published on July 23, 2018 (83 FR 34811), the EPA proposed approval of eight revisions to the Wyoming Air Quality Standards and Regulations submitted by the State of Wyoming; four submitted on March 27, 2017, and four submitted on March 28, 2018. The revisions include updates to incorporation by reference within several parts of the Wyoming Air Quality Standards and Regulations that are part of the SIP. Additional revisions were proposed that: 1) correct an inconsistency regarding internal combustion engine nitrogen oxide requirements; 2) amend three state regulations to maintain consistency with federal regulations; and 3) update a state internet address. In this rulemaking the EPA is taking final action to approve the proposed revisions. The reasons for our approval are provided in the proposed rule.

**II. Response to Public Comments**

The EPA received three anonymous comments on the proposed SIP amendments to the Wyoming Air Quality Standards and Regulations. After reviewing the comments, the EPA has determined that the comments are outside the scope of our proposed action or fail to identify any material issue necessitating a response. All comments received on this action are available for review in the docket for this rulemaking. This rule will be finalized as proposed without revisions.

**III. Final Action**

For the reasons expressed in the proposed rule, the EPA is approving the eight SIP submittals to the Wyoming Air Quality Standards and Regulations submitted by the State of Wyoming on March 27, 2017, and March 28, 2018. This action updates: 1) Chapter 8 Non-attainment Area Regulations, Section 10, Incorporation by reference (2017 Submittal); 2) Chapter 8, Non-attainment Area Regulations, Section 3, Conformity of general federal actions to state implementation plans (2018 Submittal), and Section 10,

Incorporation by reference (2018 Submittal); 3) Chapter 6, Permitting Requirements, Section 4, Prevention of significant deterioration, to remove an outdated Federal Register citation under the definition of ‘typical CO<sub>2</sub> equivalent emission (CO<sub>2</sub>e),’ portions of which had been approved in a previous October 12, 2016 EPA action (2017 Submittal); 4) Chapter 6, Permitting Requirements, Section 14, Incorporation by reference (2018 Submittal); 5) Chapter 3, General Emission Standards, Section 3, Emission standards for nitrogen oxides, which corrects an inconsistency regarding internal combustion engines (2017 Submittal); 6) Chapter 3, General Emission Standards, Section 9, Incorporation by reference (2018 Submittal); 7) Chapter 2, Ambient Standards, Section 6, Ambient Standards for ozone, to include the latest ozone NAAQS (2017 Submittal); and 8) Chapter 2, Ambient Standards, Section 12, Incorporation by reference (2018 Submittal).

#### **IV. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of Wyoming Air Quality Standards and Regulations described in the amendments set forth to 40 CFR part 52, below. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 8 office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>1</sup>

#### **V. Statutory and Executive Orders Review**

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<sup>1</sup> 62 Fed. Reg. 27968 (May 22, 1997).

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations (42 U.S.C. 7410(k), 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this final action merely approves some state law as meeting federal requirements; this final action does not impose additional requirements beyond those imposed by state law. For that reason, this final action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, Oct. 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- This action is not an Executive Order 13771 (82 FR 9339, Feb. 2, 2017) regulatory action because actions such as approving SIPs are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, Aug. 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, Feb. 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 14, 2018.

Douglas Benevento,  
Regional Administrator,  
Region 8.

40 CFR part 52 is amended as follows:

## **PART 52 APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

### **Subpart ZZ – Wyoming**

2. In §52.2620, the table in paragraph (c) is amended by revising:

a. Under the center heading “**Chapter 02, Ambient Standards,**” the table entries for Section 06 and Section 12;

b. Under the center heading “**Chapter 03, General Emission Standards,**” the table entries for Section 03 and Section 09;

c. Under the center heading “**Chapter 06, Permitting Requirements,**” Section 04 and Section 14; and

d. Under the center heading “**Chapter 08, Non-attainment Area Regulations,**” Section 03 and Section 10.

The revisions read as follows:

#### **§ 52.2620 Identification of plan.**

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(c) \* \* \*

<b>Rule No.</b>	<b>Rule title</b>	<b>State effective date</b>	<b>EPA effective date</b>	<b>Final rule citation/date</b>	<b>Comments</b>
* * * *	* * * *				
<b>Chapter 02. Ambient Standards.</b>					
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Section 06	Ambient Standards for ozone	12/20/2016	[Insert date 30 days after date of publication in the <b>Federal Register</b> ].	[Insert <b>Federal Register</b> citation]. [Insert date of publication]	

				in the <b>Federal Register</b> ].	
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Section 12	Incorporation by reference	2/5/2018	[Insert date 30 days after date of publication in the <b>Federal Register</b> ].	[Insert <b>Federal Register</b> citation]. [Insert date of publication in the <b>Federal Register</b> ].	
<b>Chapter 03. General Emission Standards.</b>					
* * * * *					
Section 03	Emission standards for nitrogen oxides	12/20/2016	[Insert date 30 days after date of publication in the <b>Federal Register</b> ].	[Insert <b>Federal Register</b> citation]. [Insert date of publication in the <b>Federal Register</b> ].	
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Section 09	Incorporation by reference	2/5/2018	[Insert date 30 days after date of publication in the <b>Federal Register</b> ].	[Insert <b>Federal Register</b> citation]. [Insert date of publication in the <b>Federal Register</b> ].	
* * * * *					
<b>Chapter 06. Permitting Requirements.</b>					
* * * * *					
Section 04	Prevention of significant deterioration	12/20/2016	[Insert date 30 days after date of publication	[Insert <b>Federal Register</b> citation].	



			in the <b>Federal Register</b> ].	[Insert date of publication in the <b>Federal Register</b> ].	
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Section 14	Incorporation by reference	2/5/2018	[Insert date 30 days after date of publication in the <b>Federal Register</b> ].	[Insert <b>Federal Register</b> citation]. [Insert date of publication in the <b>Federal Register</b> ].	
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<b>Chapter 08. Non-attainment Area Regulations.</b>					
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Section 03	Conformity of general federal actions to state implementation plans	2/5/2018	[Insert date 30 days after date of publication in the <b>Federal Register</b> ].	[Insert <b>Federal Register</b> citation]. [Insert date of publication in the <b>Federal Register</b> ].	
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Section 10	Incorporation by reference	2/5/2018	[Insert date 30 days after date of publication in the <b>Federal Register</b> ].	[Insert <b>Federal Register</b> citation]. [Insert date of publication in the <b>Federal Register</b> ].	
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